

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)

Amendment of Section 73.202(b),)
Table of Allotments,)
FM Broadcast Stations.)
(Bass River Township and Ocean City,)
New Jersey))

MB Docket No. 05-188
RM - 11240

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JUL 11 2005

To: Marlene H. Dortch, Secretary
Office of the Secretary

Federal Communications Commission
Office of Secretary

COMMENTS

1. Press Communications, LLC ("Press Communications"), licensee of FM Station WKOE(FM), Channel 292A, Ocean City, New Jersey, Fac. ID 49984 ("WKOE") initiated this proceeding¹ by submitting a Petition for Rulemaking on April 6, 2005 (the "Petition"), to change WKOE's community of license from Ocean City to Bass River Township, New Jersey ("Bass River" or the "Township") and change the station's channel from 292A to 293A. As directed by the Audio Division, Press Communications submits these comments in support of its Petition.²

2. Press Communications hereby incorporates by reference the arguments set forth in the Petition as to the benefits gained from the relocation of WKOE to Bass River and the change of the station's channel. However, Press Communications would like to highlight some of the more salient points raised in the Petition. If the instant Petition is granted, Press Communications reiterates that it will file an application for Channel 293A at Bass River and will promptly construct the facilities as authorized.

¹ Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Bass River Township and Ocean City, New Jersey), Notice of Proposed Rulemaking, MB Docket No. 05-188, RM - 11240 (released May 20, 2005) ("NPRM").

² See NPRM, Appendix, para. 2.

I. Invocation of Section 1.420(i) and Signal Contour Coverage of Bass River.

3. As the Commission notes in the Public Notice, the signal contours of WKOE's current facilities would be mutually exclusive with the signal contours of WKOE's proposed facilities in Bass River, allowing Press Communications to take advantage of Section 1.420(i) of the Commission's rules to file for a change in WKOE's community of license without facing competing applications.

4. Using a theoretical transmitter site in Bass River, located at 39° 39' 00" N, 74° 21' 20" W (NAD-27), WKOE will be able to meet the Commission's mileage separation rules and allow the station to provide a city grade signal contour over the Township. The 16 km allotment reference circle of the proposed WKOE facilities in Bass River completely encompasses the Township.

II. Preferable Arrangement of Allotments.

A. The Commission's FM Allotment Priorities and Policies.

5. The Commission will approve a change in community of license of an FM broadcast radio station if the new community "would serve the Commission's allotment priorities and policies better than the allotment in the old community."³ When evaluating a request to relocate a radio broadcast station, the Commission examines whether the station's original community of license will continue to be served by other stations if the relocation request is granted.

6. If the Commission allots WKOE to Bass River, WKOE would be the first local service licensed to the Township. There are no radio, or television, broadcast stations licensed to Bass River, which is in Burlington County. Therefore, the change in community of license

³ See *Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License*, Memorandum Opinion and Order, 5 FCC Rcd 7094, para. 2 (1990).

would serve the Commission's third FM allotment priority, the provision of first local service to a community. The Commission has traditionally viewed the second and third allotment priorities as equal in value. *Id.* After WKOE has changed its community of license, three local broadcast radio stations would remain licensed to Ocean City, which is located in Cape May County.⁴ Therefore, a change in community of license for WKOE from Ocean City to Bass River would create a preferable arrangement of allotments - Ocean City would have three local broadcast radio services and Bass River would receive its first local service.

B. Gain and Loss Area from Change in Community of License.

7. The Commission will also evaluate the loss and gain of service area and population when a change in a station's community of license involves a change in transmitter site.⁵ WKOE currently serves 158,240 people and 1,093 square km with a 60 dBu signal from its Ocean City transmitter site. If the Commission grants the instant petition and allows WKOE to operate with maximum 6.0 kW Class A facilities from Bass River, the station potentially could provide 60 dBu service to 155,870 people and 1,922 square km. This represents a 1.5% decrease in population (2,370 people), but a 75.9% increase (829 square km) in service area, excluding the portions of the 60 dBu contour that cover open water.⁶ As Figure 3 of the Engineering Exhibit

⁴ The three stations that would remain licensed to Ocean City are: WRTQ(FM), Fac. ID 65176, an NCE Class B1 directional station licensed to Temple University of the Commonwealth System and WTKU(FM), Fac. ID 3139, a Class A directional station licensed to Access.1 New Jersey License Company. Additionally, WIBG(AM), Fac. ID 19617, a Class D station, is licensed to Ocean City/Somers Point, New Jersey to Enrico S. Brancadora. Including WKOE, WRTQ, WTKU, and WIBG, there are 35 broadcast radio stations located in the Atlantic City-Cape May Arbitron Metro Market. If the Commission grants the instant request and WKOE relocates to Bass River, 34 stations will remain in the Atlantic City – Cape May Metro Market.

⁵ See e.g. *Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Bald Knob and Greenbrier, Arkansas)*, Report and Order, DA 04-2860 (released September 3, 2004).

⁶ The decrease in population served by relocating WKOE to Bass River is offset by the growth of the township and Burlington County in relation to Ocean City and Cape May County. According to recent Census data, the population of Bass River increased by 3.5 percent from 2000 to 2004. The population of Burlington County increased 6.2 percent during the same time period. This is in stark contrast to the slow growth of Ocean City and Cape May County. From 2000 to 2004, the population of Ocean City increased by 0.8 percent. The population of Cape May County decreased by 1.5 percent during the same time period. Additionally, Burlington County had the

illustrates, the entire "loss area," the area that will no longer be encompassed by WKOE's 60 dBu contour, will be served by the 60 dBu signal contours of more than five existing FM radio services. This does not include the AM stations that will continue to serve this area.

8. Additionally, WKOE will be allowed to operate at full power, 6.0 kW for a Class A station, if licensed to Bass River, which it is prohibited from doing at its current location. As a Class A station allocated to Ocean City, WKOE is restricted to an effective radiated power ("ERP") of 3.0 kW. With the increase in power, WKOE will be able to serve 1,922 square km, a dramatic 75.9% increase in service area, within its 60 dBu signal contour.

III. Bass River Township Is Eligible for Allotment as a Community of License.

9. Press Communications has provided the Commission with documentation to confirm that Bass River is eligible for allotment as a community of license including: Bass River's listing in the U.S. Census; evidence of a local governing body in Bass River that includes a Mayor and Board of Commissioners; retail and service establishments and religious institutions located in Bass River; and finally evidence of government services located in the community such as a local school district, community library and Post Office

IV. Compliance with Commission's Multiple Ownership Rules.

10. Press Communications is the licensee of five other broadcast radio stations besides WKOE, all of which are licensed to communities in New Jersey.⁷ All of these stations, except for WKOE, are located in the Monmouth-Ocean Arbitron Metro Market. Bass River is in the Philadelphia Arbitron Market. Press Communications complies with the multiple ownership

third largest increase in population out of the 21 counties in New Jersey from 2000 to 2004, while Cap May County had only the twentieth largest increase.

⁷ The stations are WBBO(FM), Ocean Acres, Fac. ID 59495; WBHX(FM), Tuckerton, Fac. ID 56233; WHTG(AM), Eatontown, Fac. ID 72323; WHTG-FM, Eatontown, Fac. ID 72324; and WWZY(FM), Long Branch, Fac. ID 32983.

rules within the Monmouth-Ocean Arbitron Metro Market.⁸ The change of WKOE's community of license would not cause Press Communications to run afoul of the Commission's multiple ownership rules as Bass River is outside of the Monmouth-Ocean Arbitron Metro Market.

CONCLUSION

11. Press Communications' request to change WKOE's community of license, and channel furthers the Commission's mandate to distribute broadcast facilities among the states and communities on a fair and equitable basis. Bass River is a community deserving of its first local broadcast service. As shown, Ocean City will not be detrimentally impacted by the proposed changes. Therefore, Press Communications submits that the NPRM is in the public interest. Press Communications will file an application for Channel 293A at Bass River and will promptly construct the facilities as authorized.

Respectfully submitted,

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By:



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⁸ Even under the Commission's former contour overlap rules, there would be no relevant contour overlap between WWZY, WHTG(AM), and WHTG-FM to the north and WBBO, WBXH and WKOE to the south. See Engineering Exhibit, Figure 4.